

# Exhibit 24

*United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp. et al.*

Civil Action No. 07-10248-PBS

Exhibit to the August 28, 2009 Declaration of James J. Fauci In Opposition To  
Corrected Boehringer Ingelheim Corporation and Boehringer Ingelheim Pharmaceuticals, Inc.  
Local Rule 56.1 Statement of Undisputed Material Facts  
in Support of Their Motion For Summary Judgment



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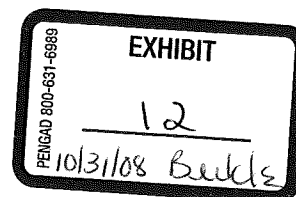
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**Ipratropium Bromide UDV  
Generic Launch Home Health Care Market  
Meeting Summary**

Roxane Laboratories; represented by Tom Via, Jerry Walsh, John Powers, Ed Tupa and Consultant, Mark Pope; and Boehringer Ingelheim; represented by Scott Richardson, Mike Spitalli and Joe Ashey; met to discuss the approaching generic launch of Ipratropium Bromide UDV (IBUDV) on January 24th in Columbus, Ohio. The format of the meeting was a round table discussion, that began with a review of the home health care market followed by a review of BIPI's marketing efforts within this market and concluded with developing a rudimentary strategy to achieve success within the market.

**Market Overview:**

There are over 13,000 home health care agencies, 3,200 (or 25%) of which are involved with respiratory therapy (RT), 60% (1,920) of these agencies sell pharmaceuticals. This group of agencies comprise our entire universe of targets for IBUDV. While the entire universe may consist of nearly 2,000 agencies, approximately 80% of the business can be accessed through 40 accounts. This list can be further targeted to the top 6 chain for profit agencies that contribute nearly 50% of the sales for the total market.

In order for IBUDV to maximize market share the issue of compounding Ipratropium powder will need to be addressed. Compounding rate was around 20% at launch, increased to 50 to 80 % during the shortage and is now in the 20 to 50% range. At this point there is no definitive answer regarding the cost of compounding, Mark Pope will approach his contacts within the industry to establish an estimated base cost for compounding, this must be done very quietly in order to not alert Dey of our upcoming launch. It should be noted that compounding will be more of an issue to overcome at the independents, the chains should not compound once generic IBUDV is available, as Joe pointed out, if the generic pricing is in line with the compounded price.

The single largest factor that will influence the success of this product is Dey Laboratories. Dey has done an outstanding job at building strong relationships within this market and will use these relationships to try and keep Roxane's IBUDV off the shelf. Dey offers a complete product line for the RT market (including their recent addition of Glaxo's Ventolin MDI) and value added services, such as their fulfillment program, in addition to an incentive based bundle to try to maintain the loyalty of their customers. Roxane will need to develop similar programs if we intend to succeed with this product. Mark will gather as much information on the fulfillment program as possible and Ed Tupa has begun developing a rebate program that will build loyalty based on the length of time the account has been purchasing our IBUDV.

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**BIPI Review of Home Health Care Activities:**

Joe Ashley initiated the discussion related to BIPI and home health care. He said this was a segment of the market that was overlooked when the Atrovent UDV marketing plan was initially being developed. This oversight resulted in the product's demand exceeding supply and led to the necessity of compounding by the agencies to meet demand. Due to the short supply of the product an allotment system was established that filled all hospital orders, then wholesalers were given a monthly allotment. This system was in effect until the new RT lines were installed at Roxane and beginning with October 1995 the allotments were lifted.

Since the product is now available Joe has been in contact with the top 6 chains and has obtained "right of first refusal" agreements with 4 of the 6. Mark Pope felt the right of first refusal will not protect Atrovent UDV from generic competition and the delay of meeting competitive pricing for Roxane's IBUDV will hinder our chances of keeping Dey from taking the entire market from BIC (this has been Roxane's experience with certain GPO contracts as well). He believes the best chance Roxane has at maintaining the market share for our IBUDV is to launch as early as possible and lock the accounts up with a volume based rebate, much like the one Ed proposed. At this point Scott Richardson proposed the right of first refusal be worded that on June 1, 1996 the accounts switch to Roxane IBUDV

There were several issues that arose during the conversation that should be noted and addressed once more research has been completed. The first issue is Medicare reimbursement. Joe was under the impression that the four regions all reimbursed in different ways. He provided his inter-office memo to illustrate the differences from region to region. The key point was that he believes some of the regions are reimbursing brand Atrovent and compounded Ipratropium under different J codes. This is in contrast to the information gathered by Roxane, while researching another matter. Ed Tupa asked Alex Dusek to verify the information we had received in the past was correct. Alex verified that there is only one J code for reimbursement for Atrovent/Ipratropium, J7645 "Ipratropium bromide 0.2%, per ml, inhalation solution, administered through a DME." In light of the contradictory information that was presented it was decided that Mark Pope would verify reimbursement issues with his contacts within the industry.

The next issue that should be examined is the pricing structure of BIPI's Atrovent. The BIPI people were not aware that Roxane had been informed that BIPI would not cut the price of Atrovent in order to keep agencies using the brand product. It is Roxane's understanding that BIPI will maintain their current price structure and allow business that is price sensitive to convert to the Roxane product. An agreement must be made and closure should be put on this issue as early as possible. It should be noted that the AWP for IBUDV will be 10%

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below Atrovent's AWP at the time of launch, contract pricing still needs to be finalized but the estimated average selling price for 1996 is \$21.00.

The continued promotion of Atrovent UDV is an issue that must be decided. It has been agreed that the BIPI sales force will continue to promote the product to hospitals through September, 1996. It is the belief of Roxane that this promotion must continue through the remainder of the year, if the market is to expand to the level that BIPI has forecast. Without continued promotion we believe the market will not reach the 5.3 million units that are forecast and will only reach 4.7 million units. Obviously an increase in the total market will benefit both BIPI and Roxane.

One final issue that should be addressed is the possibility of bundling the IBUDV with the IBMDI, either as brand Atrovent MDI or as a generic MDI. Joe Ashey introduced this as a possibility, as this is the first time this issue has been raised further study is required. At this point there is not enough information available to comment on the feasibility or need of this type of bundle.

**Strategy:**

This is a rudimentary strategy for the launch to the home health care market of IBUDV. It is impossible to prepare a definitive plan at this point as there are still many issues that need to be examined in greater detail. The most important thing to note at this point is that the next step involves filling the gaps in the information we have available. It should additionally be noted that the gathering of the required information must be done in a low profile manner. This will allow Roxane the opportunity to develop and implement the marketing strategy without alerting Dey Labs to our plans, offering them the chance to develop a counter strategy based upon our marketing plan. This low profile approach may delay the acquisition of some of the information but will result in a strengthened position upon launch of the product. Much of the information has been addressed above, a summary of all the information that is being gathered is as follows:

Home Health Care Target List (the top 40 accounts):

Responsibility: Mark Pope

Estimated Completion Date: February 9, 1996

**Results: Due to the volatility of the market the list that Mark has is not 100% accurate at this point. He is trying to confirm who is still in business and which firms have merged. The list that is available was compiled about two years ago.**

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Top Six Chain Accounts, Detailed Information on Each of the Accounts:

Responsibility: Mark Pope

Estimated Completion Date: February 9, 1996

**Results:**

- 1) Apria Health Care Group/ Costa Mesa, CA/ 350 Branches/ \$1,100 million in revenues/ 55% of business is RT (\$605).
- 2) American Homepatient/ Franklin, TN/ 204 Branches/ \$141 million in revenues/ 53% of business is RT (\$74.7).
- 3) Rotech Medical Corporation/ Orlando, FL/ 275 Branches/ \$134 million in revenues/ 39% of business is RT (\$52.3).
- 4) NMC Homecare/ Waltham, MA/ 102 Branches/ \$330 million in revenues/ 13% of business is RT(\$42.9).
- 5) Pediatric Services of America/ Norcross, GA/ 80 Branches/ \$97 million in revenues/ 24% of business is RT (\$23.3).
- 6) Signature Home Care Group/ Irving, TX/ 21 Branches/ \$110 million in revenues/ 9% of business is RT (\$9.9).

Compounding Costs:

Responsibility: Mark Pope/Roxane National Accounts Sales Force

Estimated Completion Date: No Set Time (at earliest opportunity)

**Results:** \$0.12 to \$0.15 per dose. Packaged in a screw top vial, shipped in 30's. At least one account has "committed to switching to prepared generic, as long as the price is not "outrageous.

Issues Regarding an MDI/UDV Bundle:

Responsibility: Tom Via/Ed Tupa/Ian Miles (Need for this bundle: Mark Pope)

Estimated Completion Date: February 16, 1996

Need for the 30 Count Package, Based on the Top Six Accounts:

Responsibility: Mark Pope

Estimated Completion Date: February 9, 1996

**Results:** Still awaiting final confirmation from all accounts, however for the home healthcare market the lack of the 30 count package would place us at a competitive disadvantage. The 30 count will be needed. Forecast will be reworked the week of February 19 to include the 30 count.

Final Date of BIPi Promotion of Atrovent:

Responsibility: Ian Miles/Ed Tupa/Shell Berkle

Estimated Completion Date: Undefined at this point

**Result:** Still unresolved at this point. There is agreement that BIPi will need to promote their product to expand the IBUDV market to try and attain the 5.3 million unit level.

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J Code Reimbursement:

Responsibility: Mark Pope/Tom Via

Estimated Completion Date: February 9, 1996

**Result: Joe Ashey's memo appears to be correct. Different regions reimburse different ways. It appears how the product is reimbursed depends in large part on how the claim is submitted.**

Dey's Fulfillment Program:

Responsibility: Mark Pope

Estimated Completion Date: At earliest opportunity

**Result: Dey offers sampling in two ways. 1) A standard sample request form is submitted to Dey and they ship directly to the physicians. This system is not well received due to the delay in delivery of samples to the physicians. 2) As an alternative some of the larger home health care agencies receive a sample allowance for distribution to the physicians. Generally this allowance is for 2% of unit sales. If Roxane is to be competitive with Dey we will need to put a similar program into place. The maximum number of units we would need for sampling (based on forecast) is approximately 25,000 units of 25.**

Upon completion of defining the targets for home healthcare Roxane will begin a marketing and sales program designed to convert Atrovent UDV sales over to Roxane IBUDV, thus locking out other generic competitors. This will be accomplished through the National Accounts Sales force, Field Sales Force and Telemarketing Sales Force. The four classes of customers that will be targeted will be GPO's (Hospital and Retail), Warehousing Chain RT Home Health Care Agencies, Chain Retailers, Current BI Contract Accounts and Wholesalers. Initial contacts with the above class of trade will begin in April with a ship date of June 1, 1996. Additional support for the product will be supplies in the form of direct mail programs, journal advertising, attending meeting and conventions and wholesaler promotional programs.

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